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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/903,752	07/13/2001	Noriyuki Kawano	211402US2	2054

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EXAMINER

ORTIZ CRIADO, JORGE L

ART UNIT PAPER NUMBER

2627

DATE MAILED: 06/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	Application No. 09/903,752	Applicant(s) KAWANO, NORIYUKI	
	Examiner Jorge L. Ortiz-Criado	Art Unit 2627	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 June 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: _____.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
 13. ☐ Other: _____.


 ANDREA WELLINGTON
 SUPERVISORY PATENT EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments have been fully considered but they are not persuasive.

Applicant argues that Ikegame teaches away from the feature of providing the objective lens outside the gap in which the laminate structure is disposed.

Prior art reference teaches away from claimed invention if it suggests that developments flowing from its disclosures are unlikely to produce objective of invention, and what reference teaches person of ordinary skill in art is not limited to what reference specifically talks about or what is specifically mentioned or written in reference. *Syntex (U.S.A.) LLC v. Apotex Inc.*, 74 USPQ2d 1823 (CA FC 2005); *In re Gurley*, 27 F.3d 551, 553 [31 USPQ2d 1130] (Fed. Cir. 1994).

Furthermore, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art.

In this case, Ikegame does not expressly disclose that the objective lens is disposed outside of the gap in which the laminate structure is disposed, but has the desirability of a stable driving displacement of the objective lens by taking consideration the center of gravity.

Izuka cures the deficiencies of Ikegame, which teaches that in optical pickups, comprising a magnetic circuits comprising a first and second magnets separated from one another by a gap, a coil unit comprising a "laminate" structure, where the "laminate" structure is disposed within the gap, and an objective lens connected to the laminate structure such that movement of the laminate structure results in a corresponding movement of the objective, where the objective lens is disposed outside of the gap in which the laminate structure is disposed, in order to that the movable center of gravity may be accurately set to assure stable driving displacement of the objective lens, to provide an objective lens driving device wherein the laminate structure can be mounted and assembled easily and accurately for enabling stable driving and displacement of the objective lens, to follow up accurately with the errors signals, and further the consumption of the power necessary for displacing the objective lens and heat evolution during driving of the objective lens may be suppressed in order to assure stable operation of the semiconductor laser as the light source radiating a light beam on the optical disc via the objective lens and in order to enable the recording and/or reproduction of information signals with excellent characteristics. Izuka specifically cures the deficiencies of Ikegame center of gravity relationship with the objective lens driving displacement.

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims 4,5,6 and 7 define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references..